

PROB. 12B
(7/93)

ORIGINAL

United States District Court

for the

DISTRICT OF HAWAII

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MAY 03 2007

at 10 o'clock and 5 minutes M
SUE REITIA, CLERK

Name of Offender: GRANT DELACUESTA

Case Number: CR 00-00381HG-03

Name of Sentencing Judicial Officer: The Honorable Helen Gillmor
Chief U.S. District Judge

Date of Original Sentence: 4/2/2001

Original Offense: Indictment - Conspiracy to Possess With Intent to Distribute in
Excess of 100 Plants of Marijuana, in violation of 21 U.S.C. § 846,
a Class B felony

Original Sentence: The defendant is hereby committed to the custody of the
United States Bureau of Prisons to be imprisoned for a total term of
60 months. Upon release from imprisonment, the defendant shall
be on supervised release for a term of 5 years with the following
special conditions: 1) that the defendant participate in a substance
abuse program, which may include drug testing at the discretion
and direction of the Probation Office; 2) that the defendant is
prohibited from possessing any illegal or dangerous weapons; and
3) that the defendant provide the Probation Office access to any
requested financial information.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/13/2004

PETITIONING THE COURT

☒ To modify the conditions of supervision as follows:

General Condition: *That the defendant shall refrain from any unlawful use of a
controlled substance. Shall submit to one drug test within
15 days of the commencement of supervision and at least
two periodic drug tests thereafter but no more than 8 valid
drug tests per month during the term of supervision
(mandatory condition).*

CAUSE

The offender is not in violation of his conditions of supervised release; however, based on the offender's history of substance abuse, we are recommending that his conditions be modified as reflected above. Prior to U.S. v. Stephens, 9th Circuit 2005, the offender was enrolled in random drug testing. However, due to the ruling in Stephens, the Probation Office is limited to 3 random tests outside of treatment. Drug testing is the most reliable method for monitoring the offender's drug use. The purpose for the modification is so that the Probation Office could continue to conduct random drug testing at the rate of up to 8 tests per month. This amount will allow the probation officer to fashion random drug testing designed to detect drug use while not allowing the offender to predict test dates.

As to the offender's adjustment, since his release he has submitted approximately 34 urine specimens, all of which tested negative for illicit drugs, and he completed all drug treatment counseling sessions without incident. During the first 2 years of his release, the offender maintained full-time employment with Ross' Appliance and Furniture until he secured employment as a laborer for Royal Contracting. He continues to live in a stable home environment with his wife, daughter and grandchildren, and his family recently became eligible for Hawaiian Homelands on Oahu. The offender has been on supervision now for approximately 32 months and has not incurred any violations.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



LISA K.T. JICHA
U.S. Probation Officer

Approved by:



GENE DeMELLO, JR.
Supervising U.S. Probation Officer

Date: 4/26/2007

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THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other

A handwritten signature in black ink, appearing to read "Helen Gillmor", is written over a horizontal line.

HELEN GILLMOR
Chief U.S. District Judge

5.1.07

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

☒ To modify the conditions of supervision as follows:

General Condition: *That the defendant shall refrain from any unlawful use of a controlled substance. Shall submit to one drug test within 15 days of the commencement of supervision and at least two periodic drug tests thereafter but no more than 8 valid drug tests per month during the term of supervision (mandatory condition).*

Witness: _____

LISA K.T. JICHA
U.S. Probation Officer

Signed: _____

GRANT DELACUESTA
Supervised Releasee

4/25/07

Date